

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DEDRA DE LA ROSA,  
Plaintiff,

-against-

597 BROADWAY DEVELOPMENT CORP. AND GSM (RETAIL),  
INC.,

Defendants.

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Oral deposition of JIMMY ZUEHL, taken  
pursuant to Notice, was held at the Law Offices of  
SCHLAM STONE & DOLAN, LLP, 26 Broadway, New York,  
New York, commencing October 21, 2014, 10:10 a.m.,  
on the above date, before Amanda McCredo, a Court  
Reporter and Notary Public in the State of New York.

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BY: ELIZABETH WOLSTEIN, ESQUIRE

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2 experience?

3 A Yes, it does.

4 Q Except for the two community colleges?

5 A Correct.

6 Q Are you a registered architect?

7 A No, I am not.

8 Q Are you licensed to practice architecture  
9 in New York?

10 A I am not.

11 Q Are you licensed to practice architecture  
12 in any other state?

13 A I am not.

14 Q What is required to become a registered  
15 architect in New York State?

16 A In New York State, you're required to have  
17 completed the intern development program, which I  
18 have done through NCARB, the National Council  
19 Accredited Architecture, I believe it is. You're  
20 required to pass seven tests, exams, which is what  
21 I'm in the process of doing -- my first one being  
22 next month -- and you are required to pay a fee  
23 and provide an application to the State of New  
24 York.

25 Q Have you ever, in the past, taken any of

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2 the sections on the test to become a registered  
3 architect?

4 A I have not.

5 Q Have you taken a test to become a licensed  
6 architect in any other state?

7 A I have not.

8 Q Since you are not a registered architect,  
9 you're not qualified to sign and seal drawings in  
10 New York State; is that right?

11 A That is correct.

12 Q In New York State, the only architects who  
13 can sign and seal drawings are registered  
14 architects, correct?

15 A I believe engineers, as well, can sign  
16 drawings.

17 Q Speaking of architects, though, to sign  
18 and seal drawings in New York State, you have to  
19 be a registered architect, correct?

20 A Yes.

21 Q You are not qualified to submit  
22 architectural drawings to the New York City  
23 Department of Buildings, correct?

24 A I can submit architectural drawings,  
25 assuming they are signed and stamped by a

1 J. Zuehl

2 registered architect.

3 Q You need another architect to be the  
4 submitting architect of record for the New York  
5 City Department of Buildings?

6 A Correct.

7 Q So, the application or any submission  
8 would not be in your name; is that right?

9 A I believe so.

10 Q Meaning, you believe it would not be in  
11 your name?

12 A Yes. I have to say, I believe, and I'm  
13 not certain, however, because I have worked,  
14 again, with engineers who have submitted drawings,  
15 and the application can be under other people's  
16 names as long as there's an architect of record or  
17 engineer of record attached to that application.

18 Q Have you ever, as the architect of record,  
19 submitted an application to the New York City  
20 Department of Buildings?

21 A I have not.

22 Q Have you ever submitted an application to  
23 the New York City Landmarks Preservation  
24 Commission?

25 A I have not.

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2 MR. PARKER: Exhibit 2 that you handed him  
3 has the photos.

4 MS. WOLSTEIN: It has the photos, okay.

5 Q So Exhibit 2 is your complete report that  
6 you submitted?

7 A That I submitted, correct, for Parker  
8 Hanski.

9 Q And you made a site visit to the store, at  
10 least the outside of the store, on July 10, 2014?

11 A That is correct.

12 Q And did you take some measurements when  
13 you were there?

14 A I did.

15 Q And you measured that the steps are  
16 approximately 15 and a half inches high, I'm  
17 looking at page two, is that right, box three?

18 A Correct.

19 Q If you look at Sketch 1A on page four, do  
20 you see that?

21 A Yes.

22 Q Did you prepare this drawing, Sketch 1A?

23 A Yes, I did.

24 Q This is a drawing of a ramp that you say  
25 could be built outside the store providing access

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2 rectangular (indicating).

3 A Yes.

4 Q On the ramps on your design, how high off  
5 the ground is this part (indicating)?

6 A It depends on where you take it. At the  
7 bottom of the ramp, it would be architectural 00.  
8 At the top of the ramp, at the door, it would be  
9 plus 15 inches.

10 Q Where does the ramp begin? That's why,  
11 maybe, I'm a little confused.

12 A The ramp begins four feet beyond the  
13 building.

14 Q Does the ramp begin where it says, "new  
15 ramp," or does it begin at the line that says 00?

16 A The line that says new ramp is a  
17 dimension, and is not the ramp. The line that  
18 says 00 is the ramp.

19 Q So that bottom rectangle is just a  
20 dimension?

21 A Correct.

22 Q So when you say the slope is 13 percent,  
23 you're referring to the line 00 up to the door or  
24 the entrance?

25 A Correct.

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2 Q The flare on the left side also extends  
3 four feet out from the storefront?

4 A Flare on the left side, correct.

5 Q And that left side flare extends out in  
6 front of the neighboring property?

7 A That is correct.

8 Q Where is the manhole cover on the street  
9 in relation to your drawing?

10 A It's outside the confines of my drawing.  
11 It's not showing because my drawing is only  
12 showing --

13 Q You could draw on there. Do you have a  
14 pen? Are you able to draw where the manhole cover  
15 is in relation to your drawing, on your drawing?

16 A Not really. I mean, this is an AutoCAD  
17 drawing with its dimensions. And so, without  
18 actually dimensioning -- I mean, I would  
19 approximate again. But it wouldn't be accurate.

20 Q When you say "AutoCAD drawing," what do  
21 you mean by that?

22 A AutoCAD is a computer device that allows  
23 designers to accurately depict designs. Sorry,  
24 I've never had to describe AutoCAD before. It's a  
25 computer program that allows you to draft, and



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2 that's probably the better way to say it.

3 Q Does the ramp in Sketch 1A have a level  
4 platform or landing at the top of the ramp by the  
5 door to the store?

6 A It does.

7 Q It does?

8 A Yes.

9 Q Where is that?

10 A That is inside the store, inside the door.

11 Q Inside?

12 A Yes.

13 Q How about outside, is there a level  
14 platform?

15 A That is why there is an automatic door,  
16 because the door in the open position would allow  
17 you up the ramp and land inside the building.

18 Q Is there a level platform or landing at  
19 the top of the ramp outside the building?

20 A There is not.

21 Q Does the ramp in Sketch 1A have handrails?

22 A It does not.

23 Q And the door to the store opens outward,  
24 correct?

25 A That is correct.

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2 property.

3 Q It extends 44 inches instead of 48 inches?

4 A That is correct.

5 Q Is there any other difference between the  
6 ramp design in Appendix 2 and Sketch 1A?

7 A Other than the building is hatched in  
8 Sketch 2 and is -- is hatched in Sketch 1A and is  
9 not hatched in Sketch 2.

10 Q What do you mean by "hatched"?

11 A I'm just wanting to make sure I'm  
12 answering honestly, but it's honestly just a  
13 drafting difference in that the building area that  
14 is demised as Billabong is hatched, is a darker  
15 color. And that hatch has been removed in  
16 Appendix 2.

17 Q That doesn't have anything to do with the  
18 design, though, of the ramp, does it?

19 A It does not. You are correct in what you  
20 are saying.

21 Q Would it be accurate to say the only  
22 difference between Sketch 1A and Appendix 2 is  
23 that, in Appendix 2, the ramp extends 44 inches  
24 rather than 48 inches as in Sketch 1A?

25 A Correct, for the design of the ramp.

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2 Q And the flare ramp extends out 44 inches  
3 on the right and on the left, yes?

4 A That is correct.

5 Q And the left flare extends out in front of  
6 the neighboring store?

7 A That is correct.

8 Q And on Appendix 2, there is no level  
9 platform or landing at the top of the ramp outside  
10 the store, correct?

11 A That is correct.

12 Q The Appendix 2 ramp has no handrails,  
13 correct?

14 A That is correct.

15 Q Would building this ramp require removal  
16 of the steps to the store?

17 A Yes, it would.

18 Q And the slope here on Appendix 2 is shown  
19 as 13 percent?

20 A That is correct.

21 Q How can the slope of a 44-inch ramp be the  
22 same as the slope of a 48-inch ramp?

23 A Because, based on my experience in the  
24 design of ramps, you have to build in a  
25 construction tolerance because the contractors, if

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2 measurement recorded somewhere in your notes?

3 A I do not.

4 Q And turning to the next page, 593  
5 Broadway.

6 A Okay.

7 Q Would it be accurate to say you also do  
8 not know the height of the entrance step at that  
9 door front?

10 A That is correct.

11 Q You don't have that written down  
12 somewhere?

13 A I do not have that information written  
14 down.

15 MS. WOLSTEIN: Why don't we take a short  
16 break.

17 (Whereupon, a recess was taken.)

18 Q Would you agree that the ramp drawing in  
19 Appendix 2 does not comply with the ADA 2010  
20 design standards?

21 A I would agree, yes.

22 Q Let's go back to Exhibit 2, which was the  
23 July 10th report. Go to page 3, please. If you  
24 could look at the last sentence to the first  
25 paragraph, starting with the attached Sketch 2A

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2 proposal.

3 Do you see that?

4 A The attached Sketch 1A?

5 Q Mine says 2A.

6 MR. PARKER: We're talking about the last  
7 sentence on page 3?

8 MS. WOLSTEIN: No, the last sentence in  
9 the first paragraph.

10 Q The attached Sketch 2A, do you see that  
11 sentence?

12 A Yes.

13 Q Could you read it to yourself and tell me  
14 when you're done.

15 A Okay.

16 Q What do you mean in that sentence when you  
17 say, "Assumes that permission is granted to  
18 utilize this area"? What do you mean by that  
19 sentence?

20 A Meaning, that you applied for the  
21 appropriate permits to use the space in the  
22 sidewalk.

23 Q Your drawing in Sketch 2A assumes that all  
24 the necessary permits are issued?

25 A Permits, waivers, variances, anything

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2 that's necessary. Ultimately, permission is  
3 granted.

4 Q From all the agencies that are required to  
5 give permission?

6 A Correct.

7 Q Then can you look at page 5 of 5, Sketch  
8 2A. Did you draw this drawing?

9 A I did.

10 Q And this depicts a proposed wheelchair  
11 lift?

12 A Yes.

13 Q What are the dimensions of the lift?

14 A Well, this lift was generic dimensions  
15 before I had contacted a lift manufacturer. So,  
16 it's a lift that allows for the required 48 inches  
17 by 30 inches of clear floor space in the lift  
18 zone.

19 Q So, you're talking about the low position  
20 shows some dimensions there?

21 A Correct.

22 Q And those dimensions are not of the lift,  
23 but are of clear space?

24 A That is correct.

25 Q What does that mean exactly, "clear

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2 Q Did you draw this Appendix 3 drawing?

3 A I did.

4 Q And does this proposed design also assume  
5 that all the necessary permits from the City  
6 agencies would be granted?

7 A Of course, yes.

8 Q How does this lift in Appendix 3 differ  
9 from the lift we were just looking at in Sketch  
10 2A?

11 A As I said, regarding Sketch 2A, this was a  
12 very early conceptual sketch. When I started  
13 doing Appendix 3, I reached out to a lift  
14 manufacturer to get more requirements, something  
15 that usually the architect would do. But because  
16 the architect didn't seem to want to take that  
17 next course, I reached out to a lift manufacturer.  
18 He recommended a specific lift. The Garaventa  
19 Artira that's noted there. Because he was able to  
20 recommend a certain lift, I was able to get an  
21 actual more detailed drawing of the lift size and  
22 parameters. And so, this drawing is somewhat of  
23 an evolution of the previous drawing with  
24 additional information.

25 These are not construction documents, but

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2 they are getting closer to being more realistic.

3 They show the lift rail attachment, as you had asked  
4 about in the previous sketch, being floor mounted.

5 They also show the drive box, which was not showed  
6 before.

7 Q The drive box, where is that, and what is  
8 it?

9 A That is the square that's just to the  
10 right of the door.

11 Q The solid line rectangle?

12 A The solid rectangle, correct, that the  
13 rail seems to die into.

14 Q Okay.

15 A I would like to clarify, still, while they  
16 are much more developed than the previous  
17 conceptual sketches, that these are still  
18 conceptual sketches.

19 The next step would be to detail these  
20 further into -- the drive box can go anywhere. The  
21 drive box can go in the building, the drive box can  
22 go outside the building, it can be at the bottom, it  
23 can be at the top. The configuration of the rail  
24 could be different. This just seemed to be a  
25 proposal that gets a lot more to meeting the



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2 appropriate permits.

3 Q Who did you talk to at the lift company?

4 A I don't know his last name, but his first  
5 name is Dean.

6 Q Which company was that, Handi-Lift?

7 A Handi-Lift, correct.

8 Q What did you talk to him about?

9 A I explained to him that I had a building  
10 with approximately 15, 15-and-a-half change of  
11 elevation, what the constraints was, that there  
12 was an entrance door, there was standpipes, there  
13 was obviously the right-of-way, the sidewalk. I  
14 explained to him what my parameters were and  
15 whether we could find a lift that could work  
16 within those parameters.

17 There are numerous lift manufacturers out  
18 there. Some lifts, again, don't even meet the ADA  
19 requirements because they don't have that clear  
20 floor space. That's why it's important, at some  
21 point, to reach out to a lift manufacturer to start  
22 to develop the drawings more and provide that level  
23 of detail.

24 Q So, you asked him to recommend a  
25 particular model of lift based on what you

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2 it can be done. And it might not necessarily have  
3 to be done the way those drawings show, but that it  
4 can be done.

5 Q When you say, "that it can be done," you  
6 mean that it can be done physically, you're not  
7 talking about from a permitting point of view?

8 A Correct, that it can be done physically.

9 Q Do you expect any of the dimensions to be  
10 different on the final drawings that come out of  
11 this exchange-of-drawings process?

12 A Yes. However, there are dimensions that  
13 are important to me, parameters I guess you could  
14 say, that I would like to stay within. So  
15 dimensions, on this drawing, yes, could change.

16 Q Which do you think could change?

17 A Any number of them. I think the easiest  
18 way for me to answer that question is that I know  
19 that there is a disinterest from having to go to  
20 the Department of Transportation. So, I would  
21 like to make sure that it stays within 44 inches.  
22 So, that dimension I do not intend to change.

23 However, how far the lift is off the wall,  
24 showing 18 inches, could be closer, could be farther  
25 away. Probably closer. The easiest way for me to

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2 answer the question is, yes, I envision the  
3 dimensions changing.

4 Q What is the weight of this particular  
5 model of lift in Appendix 3?

6 A I don't know the weight off the top of my  
7 head, but it is information that's available on  
8 the website.

9 Q How is the railing attached in Appendix 3?

10 A In Appendix 3, it's floor mounted.

11 Q How does that work?

12 A There's usually a vertical post that is  
13 attached, typically, with angles. That's my  
14 answer. I guess I could get more technical,  
15 but --

16 Q Would it have to be mounted on the steps?

17 A It could be. One of the conversations I  
18 had with the lift manufacturer is, once we confirm  
19 that this is the correct lift and the correct  
20 design, whether or not those mounts would be on  
21 the steps or if they would be on the actual  
22 finished floor ground level below. Again, that's  
23 part of further design development.

24 MS. WOLSTEIN: Would you mind if I look at  
25 Exhibit 2?

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2 MR. PARKER: (Handing.)

3 Q I'm looking at page 1 of the images on  
4 Exhibit 2. I guess I don't understand how the  
5 lift could be attached to the ground.

6 A Well, this is why I say there's further  
7 design development. That once the design and the  
8 lift is chosen, we would, one, want to determine  
9 whether or not the stairs themselves could support  
10 the lift. And if not, what is underneath the  
11 stairs, does the concrete extend beyond. We're  
12 assuming there's a finished floor underneath  
13 there. Again, that's part of further design  
14 development.

15 Q So, it might end up being not a floor  
16 mounted, but a wall mounted lift -- rail, I should  
17 say, the rails.

18 Is it possible that, at the end of the  
19 process, the rails could be mounted on the building  
20 rather than on the steps?

21 A It's possible. Though, anything's  
22 possible. It's more likely, from the standpoint  
23 of construction, that it would be mounted on the  
24 ground. But, yes, it is possible.

25 Q When you say "ground," do you mean on the

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2 ways, which means, again, nonruining of the steps.  
3 Cameras, that you can actually stick a camera in  
4 either a crevice, or is there is a crack in the  
5 building. Or, if you have to, put a small hole so  
6 a camera could fit down there.

7 Another way would be to look if there are  
8 any building plans that would show the construction  
9 of the steps, so we know. Maybe from the basement  
10 you can see the underside of the steps, so it could  
11 be from simple observation.

12 Q But all that would have to be determined  
13 in finalizing the design for the final lift?

14 A Correct.

15 Q And so, today, as of today, you don't know  
16 whether the stairs could support the lift with a  
17 floor-mounted rail?

18 A Correct.

19 Q One potential design that you would be  
20 considering in your exchange of drawings, to  
21 remove some material from the steps and mount the  
22 rail underneath what's the top layer of the step,  
23 at this point?

24 A I don't believe there would be an  
25 intention to remove the steps, but it's possible

1 J. Zuehl

2 you would have to penetrate the steps to find a  
3 structural member.

4 Q That would support the rail?

5 A That would support the rail, correct.

6 Q So, as of today, you don't know exactly  
7 where the rail would be mounted?

8 A We know where the rail would be. However,  
9 where exactly the mounting posts would go, we  
10 don't know. Which that's some security that has  
11 been given to me that, you know, the rail in  
12 general and the position of the lift and how it  
13 gets from the ground up to the landing is fairly  
14 clear. We may have to try and figure out where  
15 the rail would attach. Ideally, floor mounted  
16 from the lift manufacturer themselves is what they  
17 recommend. But, again, there are other options.

18 Q You mean, building-mounted?

19 A Yeah. Building-mounted or floor-mounted.  
20 Actually, again, penetrating the floor -- the  
21 landing, I'm sorry.

22 Q So, could you show me on your copy of  
23 Appendix 3, could you just draw where the rail  
24 goes -- is, just color it in, color it in blue, or  
25 just outline it or something.

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2 A (Witness complies.)

3 That's the rail. It sits in front of the  
4 mounting brackets (indicating).

5 Q Those things sticking between the rail and  
6 the storefront are mounting brackets?

7 A Correct.

8 Q How do they work?

9 A There's a piece of steel that usually  
10 attaches with angles to the rail itself, as well  
11 as to whatever surface it's attaching to.

12 Q In this drawing, are these brackets  
13 attached to the storefront?

14 A In this drawing, no, they're attached to  
15 the floor. I should add that I'm not, again, a  
16 structural lift expert. This is information I'm  
17 relying on from the manufacturer. So, I actually  
18 don't think it's really appropriate for me to talk  
19 about how it's attached.

20 Again, I can --

21 Q You don't feel it's within your expertise  
22 to talk about the details of installing the lift?

23 A Correct.

24 Q How it would work?

25 A Well, I can tell you, conceptually, how it

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2 would work, but the lift manufacturer is the one  
3 that has to design the structure. I can propose  
4 something, and I can tell you how I think it  
5 should go together, but the lift manufacturer will  
6 have their own recommendations as well.

7 Q Well, you and your side of the case has  
8 put forward a proposed drawing of a proposed lift.

9 A Correct.

10 Q So I'm trying to understand, you know,  
11 what it means and what it doesn't mean. So that's  
12 why I'm asking you these questions.

13 The mounting bracket in your drawing is  
14 mounted to the top of the step; is that right?

15 A There is one bracket on the top of the  
16 step, and there is another bracket on the landing,  
17 and another bracket on the ground.

18 Q Do you know whether these brackets would  
19 be sufficient to hold the weight?

20 A I do not know.

21 Q Of the rail?

22 A No.

23 Q Of the lift?

24 A No. Those are the calculations that  
25 anyone would need to do with the lift



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2 Department, Mayor's Office, it can involve the  
3 Department of Transportation. Even technical  
4 affairs, it can involve the Commissioner. It's all  
5 really one entity that wants to find a solution.

6 Q Well, if you didn't show the person the  
7 drawings, what did you describe to him when asking  
8 him if you're missing something?

9 A Off the top of my head, I don't know if I  
10 can give you an exact description of what I spoke  
11 about other than what I already said. That,  
12 generally speaking, in a situation where we have a  
13 step up to multiple steps, two steps I believe I  
14 said, up to a building entrance, you know, the  
15 ramp doesn't seem feasible, yet I know that  
16 there's these things in place that can allow you  
17 to exceed those. Is there something, you know, do  
18 you agree. Again, I don't even know if I'm  
19 paraphrasing because this conversation was a month  
20 ago and I speak to many people about many things.

21 Q So, you asked the person's input without  
22 showing any drawings?

23 A Correct.

24 Q And I'll ask you again what office the  
25 person was in, in the Department of Buildings?

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2 Q Without regard to whether the necessary  
3 permits would be granted?

4 A I guess you could say that. Generally  
5 speaking, you know, any designer tries to think  
6 about other aspects with the Code and what might  
7 be triggered with respect to that.

8 Just like your own architects are focusing  
9 on a ramp, some examiners say, "You need handrails."  
10 From an accessibility standpoint, I do consider  
11 myself an expert. So from an accessibility  
12 standpoint, I think those would be final ramp  
13 designs that would comply with the New York City  
14 Building Code and ADA, from an accessibility  
15 standpoint.

16 Q Back to Appendix 3. I'm not sure I asked  
17 this. The placement of the mounting brackets  
18 could conceivably change in the final, what you  
19 consider the final, drawing of this lift; is that  
20 right, is that what you said?

21 A Yes.

22 Q Going back to page 4 of 4 on Exhibit 3?

23 A Okay.

24 Q If you go down to 3A, "Alterations of  
25 Historic Material"?